

[D.I. 23]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

NICHOLAS KYLE MARTINO,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant.

Civil No. 21-1342 (NLH/AMD)

ORDER

This matter comes before the Court by way of renewed motion [D.I. 23] of Plaintiff, Nicholas Kyle Martino, for leave to file a supplemental pleading pursuant to Federal Rule of Civil Procedure 15(d). Plaintiff previously sought leave to supplement the complaint, but failed to attach a proposed supplemental pleading to the motion. (Order [D.I. 21], June 14, 2021, p. 5.) Defendant opposed the prior motion due to Plaintiff's failure to attach a proposed pleading, noting that Defendant was unable to determine whether there was a basis to oppose the motion without the proposed pleading. (Letter from Peter G. Vizcarrondo, Assistant U.S. Attorney [D.I. 20], June 2, 2021, p. 2.) The Court denied the motion, without prejudice to Plaintiff's right to file a renewed motion that appended a proposed supplemental pleading.

(Order [D.I. 21], June 14, 2021, p. 5.) Plaintiff has now filed the instant motion, which includes a proposed supplemental pleading.

As noted in the June 14, 2021 Order, "[s]upplementation of pleadings is governed by Federal Rule of Civil Procedure 15(d), which provides that 'the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.'" (Order [D.I. 21], June 14, 2021, p. 3) (quoting FED. R. CIV. P. 15(d)). "'Rule 15(d) is subject to the same liberal standards applicable under 15(a) [governing leave to amend pleadings], and '[l]eave to file a supplemental complaint should be freely permitted in the absence of undue delay, bad faith, dilatory tactics, undue prejudice to defendants, or futility, and when the supplemental facts are connected to the original pleading.'" (*Id.*) (quoting *7-Eleven, Inc. v. Sodhi*, Civil No. 13-3715, 2016 WL 541135, at *8 (D.N.J. Feb. 9, 2016)). Here, Defendant has not filed opposition to the renewed motion, and the time for filing opposition has expired. Given the liberal standard for permitting supplemental pleadings, and in the absence of any showing by Defendant that the motion should be denied on grounds of bad faith, delay, prejudice or futility, the Court finds good cause to grant Plaintiff's motion. Consequently, the Court having

decided this matter pursuant to Federal Rule of Civil Procedure 78(b) and for good cause shown:

IT IS on this **27th** day of **July 2021**,

ORDERED that Plaintiff's motion for leave to file a supplemental pleading [D.I. 23] shall be, and is hereby, **GRANTED**; and it is further

ORDERED that Plaintiff shall file a supplemental pleading in the form attached to the motion within ten (10) days of entry of this Order and shall serve the supplemental pleading in accordance with the Federal Rules of Civil Procedure.

s/ Ann Marie Donio

ANN MARIE DONIO
UNITED STATES MAGISTRATE JUDGE

cc: Hon. Noel L. Hillman